

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

In re:  
  
ASHINC CORPORATION, *et al.*<sup>1</sup>,  
  
Debtors.

Chapter 11  
  
Bankruptcy Case No. 12-11564 (MFW)  
  
(Jointly Administered)

CATHERINE E. YOUNGMAN, LITIGATION  
TRUSTEE FOR ASHINC CORPORATION,  
ET. AL., AS SUCCESSOR TO THE OFFICIAL  
COMMITTEE OF UNSECURED CREDITORS  
OF ASHINC CORPORATION, AND ITS  
AFFILIATED DEBTORS

Plaintiff,

BDCM OPPORTUNITY FUND II, LP, BLACK  
DIAMOND CLO 2005-1 LTD., and  
SPECTRUM INVESTMENT PARTNERS, L.P.,

Intervenors,

v.

YUCAIPA AMERICAN ALLIANCE FUND I,  
L.P., and YUCAIPA AMERICAN ALLIANCE  
(PARALLEL) FUND I, L.P.,

Defendants.

Bankruptcy Adv. Proc. No. 13-50530  
(MFW)

Civ. Action No. 1:21-cv-00994-CFC

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<sup>1</sup> The Debtors in these cases, along with the federal tax identification number (or Canadian business number where applicable) for each of the Debtors, are: ASHINC Corporation (f/k/a Allied Systems Holdings, Inc.) (58- 0360550); AAINC Corporation (f/k/a Allied Automotive Group, Inc.) (58-2201081); AFBLLC LLC (f/k/a Allied Freight Broker LLC) (59-2876864); ASCCO (Canada) Company (f/k/a Allied Systems (Canada) Company) (90- 0169283); ASLTD L.P. (f/k/a Allied Systems, Ltd. (L.P.) (58-1710028); AXALLC LLC (f/k/a Axis Areta, LLC) (45 5215545); AXCCO Canada Company (f/k/a Axis Canada Company) (875688228); AXGINC Corporation (f/k/a Axis Group, Inc.) (58- 2204628); Commercial Carriers, Inc. (38-0436930); CTSINC Corporation (f/k/a CT Services, Inc.) (38 2918187); CTLLC LLC (f/k/a Cordin Transport LLC) (38-1985795); F.J. Boutell Driveway LLC (38-0365100); GACS Incorporated (58-1944786); Logistic Systems, LLC (45-4241751); Logistic Technology, LLC (45-4242057); QAT, Inc. (59-2876863); RMX LLC (31-0961359); Transport Support LLC (38-2349563); and Terminal Services LLC (91- 0847582).

CATHERINE E. YOUNGMAN, LITIGATION TRUSTEE FOR ASHINC CORPORATION, ET AL., AS SUCCESSOR TO BDCM OPPORTUNITY FUND II, LP, BLACK DIAMOND CLO 2005-1 LTD., SPECTRUM INVESTMENT PARTNERS, L.P., BLACK DIAMOND COMMERCIAL FINANCE, L.L.C., as co-administrative agent, and SPECTRUM COMMERCIAL FINANCE LLC, as co-administrative agent,

Plaintiff,

v.

YUCAIPA AMERICAN ALLIANCE FUND I, L.P., and YUCAIPA AMERICAN ALLIANCE (PARALLEL) FUND I, L.P.,

Defendants.

Bankruptcy Adv. Proc. No. 14-50971 (MFW)

Civ. Action No. 1:21-cv-00995-CFC

### **JOINT STATUS REPORT REGARDING APPEALS**

Defendants-Appellants Yucaipa American Alliance Fund I, L.P., and Yucaipa American Alliance (Parallel) Fund I, L.P., (collectively “Yucaipa” or “Defendants”), and Appellee-Plaintiff Catherine E. Youngman, in her capacity as the Litigation Trustee and Plan Administrator (the “Trustee” or “Plaintiff,” and together with the Defendants, the “Parties”) hereby submit this joint status report to the Court in above-captioned relevant proceedings.

1. On February 1, 2013, the Official Committee of Unsecured Creditors in the bankruptcy case filed a complaint initiating adversary proceeding number 13-50530, and an amended complaint was filed on March 14, 2013, in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”).

2. On November 19, 2014, BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 Ltd., and Spectrum Investment Partners, L.P. filed a complaint initiating adversary

proceeding number 14-50971. Adversary proceeding numbers 13-50530 and 14-50971 are collectively referred to herein as the “Adversary Proceedings.”

3. Under the Debtors’ Modified First Amended Joint Chapter 11 Plan of Reorganization dated December 3, 2015, approved by the Bankruptcy Court, and the Litigation Trust Agreement dated December 20, 2016, the Adversary Proceedings are now jointly prosecuted by the Plaintiff.

4. Following briefing on cross motions for summary judgment, on May 4, 2021, the Bankruptcy Court issued an opinion granting in part and denying in part, the Parties’ cross motions for summary judgment on many of the claims asserted in the Adversary Proceedings. On June 23, 2021, the Bankruptcy Court entered a judgment implementing that ruling (the “2021 Judgment”) [Adv. Pro. No. 13-50530, D.I. 841; Adv. Pro. No. 14-50971, D.I. 579].

5. Yucaipa filed a motion to stay the Judgment pending appeal, which the Bankruptcy Court denied. On July 6, 2021, Yucaipa filed notices of appeal of the 2021 Judgment, which are pending and docketed as the above-captioned matters at Civil Action No. 21-cv-994 and 21-cv-995. Yucaipa also sought a stay of the 2021 Judgment pending appeal in this Court, but the motion was denied [Civ. Action No. 21-cv-994, D.I. 35; Civ. Action No. 21-cv-995, D.I. 35].

6. On August 2, 2021, Judge Thyng issued a recommendation to refer these appeals to mediation [Civ. Action No. 21-cv-994, D.I. 33; Civ. Action No. 21-cv-995, D.I. 33] (the “Recommendation”).

7. On August 11, 2021, the Court overruled the Recommendation insofar as the imposition of stay but adopted the Recommendation in all other respects, including to refer the appeals to mediation [Civ. Action No. 21-cv-994, D.I. 40; Civ. Action No. 21-cv-995, D.I. 40].

8. Since that time, the Parties have engaged in mediation with Judge Weinstein and Mr. Melnick over various issues in an attempt to resolve these appeals and related actions that are

pending before the Court, including :

- *Youngman v. Yucaipa American Alliance Fund I, LLC et al.*, Civ. Action No. 22-cv-302-CFC (D. Del.);
- *Youngman v. Yucaipa American Alliance Fund I, L.P. et al.*, Civ. Action Nos. 22-cv-197-CFC, 22-cv-198-CFC (D. Del.);
- *Youngman v. Yucaipa American Alliance Fund I, L.P. et al.*, Civ. Action Nos. 22-cv-634-CFC, 22-cv-635-CFC (D. Del.);
- *Youngman et al. v. Yucaipa American Alliance Fund I., L.P. et al.*, Civ. Action No. 21-1060-CFC (D. Del.), and subsequent appeal captioned *Youngman et al. v. Yucaipa American Alliance Fund I., L.P. et al.*, Case No. 22-2442 (3d Cir.).

9. Settlement efforts have continued among the Parties. The Parties propose to maintain the status quo of these appeals until further mediation/settlement efforts are exhausted, pursuant to the Court's June 21, 2022 order entered in Civ. Action Nos. 22-cv-634-CFC, 22-cv-635-CFC (D. Del.).

Dated: January 9, 2023

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